

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105

File No. RH04037853
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INITIAL STATEMENT OF REASONS

INTRODUCTION:

Insurance Commissioner John Garamendi (“Commissioner”) proposes to adopt a regulation for the administration of prelicensing and continuing education courses provided to bail agents, solicitors and permittees (collectively referred to as “bail licensees”). The adoption of the regulation will occur after the Commissioner considers all comments, objections and recommendations regarding the proposed regulation. The regulation will add language to Title 10, Chapter 5, Subchapter 1, Article 2 of the California Code of Regulations (“C.C.R.”) and will implement, interpret, and make specific the provisions of California Insurance Code Section (“C.I.C. §”) 1810.7.

DESCRIPTION OF THE PUBLIC PROBLEM ADDRESSED BY EACH
SUBDIVISION / THE SPECIFIC PURPOSE AND NECESSITY OF EACH
SUBDIVISION

C.I.C. § 1810.7 requires, among other things, applicants for a bail license to complete 12 hours of prelicensing education (“PRE”). Licensees must thereafter annually complete not less than six hours of continuing education (“CE”). To fulfill the Legislature’s intent in requiring PRE and CE, the Commissioner must ensure that schools and instructors are qualified, courses relevant, students properly credited with instruction they receive and not credited with instruction they do not receive, and attendance records properly maintained.

The specific purpose of each section, and the rationale for the determination that each section is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each section is intended to address, is set forth below.

The regulation is virtually identical in substance to an existing regulation governing PRE and CE for fire and casualty broker-agents and life agents. That regulation has existed since 1993 (10 C.C.R. § 2186 *et seq.*) without significant complaint or controversy.

Section 2105.1 - Definitions

Section 2105.1(a) defines "Class." C.I.C. § 1810.7 uses the term "classes," but does not define it. Having this definition will allow the regulation to use a single word without having to explain what is meant by the word each time it is used. It is reasonably necessary to make the regulation more concise.

Section 2105.1(b) defines "Classroom." C.I.C. § 1810.7 requires classroom education and uses the term, but does not define it. Having this definition will allow the regulation to use a single word without having to explain what is meant by the word each time it is used. It is reasonably necessary to make the regulation more concise.

Section 2105.1(c) defines "Commissioner" so that the remaining sections of the regulation can use one word instead of three in referring to the California Insurance Commissioner. Section 2105.1(e) defines Department to mean the Department of Insurance for a similar reason. Having these definitions will allow the regulation to use a single word without having to explain what is meant by the word each time it is used. They are reasonably necessary to make the regulation more concise.

Sections 2105.1(d) and (i) define "course" and "instructor," essentially applying everyday meanings to the terms. The terms are used throughout the regulation. Having these definitions will allow the regulation to use a single word in lieu of explaining what is meant by the word each time it is used. They are reasonably necessary to make the regulation more concise.

Section 2105.1(f) defines "electronic filing." This term is needed to clarify which computer media and technologies an education provider may use to submit required documents to the Department in a manner that Department computers can "read." The term "electronic signature" is defined in section 2105.1(g) for the same reason. Having these definitions will allow the regulation to use a two-word phrase in lieu of explaining what is meant by the phrase each time it is used. They are reasonably necessary to make the regulation more concise.

Section 2105(h) defines "fee schedule" so that this two-word phrase can be used throughout the remaining text of the regulation in lieu of the more cumbersome "State of California, Department of Insurance, Schedule of Fees and Charges." Having this definition will allow the regulation to use a two-word phrase without having to explain what is meant by the phrase each time it is used. It is reasonably necessary to make the regulation more concise.

Section 2105.1(j) defines "original signature." Having this definition will allow the regulation to use a two-word phrase without having to explain what is meant by the phrase each time it is used. It is reasonably necessary to make the regulation more

concise.

C.I.C. § 1810.7 uses the term “provider” but does not define it. Section 2105.1(k), by defining “provider,” clarifies the statute and allows the regulation to use a single word to refer to the entity that offers bail PRE or CE courses. It is reasonably necessary to make the regulation more concise.

Section 2105.1(l) defines “provider director” so that the regulation can use a brief term to refer to the natural person responsible for the activities of a provider. Having this definition will allow the regulation to use a two-word phrase without having to explain what is meant by the phrase each time it is used. It is reasonably necessary to make the regulation more concise.

All of the definitions in section 2105.1 are reasonably necessary to a rational, comprehensive regulatory scheme dealing with bail education, and are therefore reasonably necessary to implement C.I.C. § 1810.7. The definitions were reviewed and approved in a workshop with bail industry and bail education experts.

Section 2105.2 – Prelicensing Education Curriculum

C.I.C. § 1810.7 requires education “in subjects pertinent to the duties and responsibilities of a bail licensee, including, but not limited to, all laws and regulations related thereto, rights of the accused, ethics, and apprehension of bail fugitives.” Section 2105.2 lists the specific topics included in these general subjects and thereby is reasonably necessary to clarify this aspect of C.I.C. § 1810.7. These specific topics were developed by the Department in a workshop with bail industry and bail education experts.

Section 2105.3 - Providers

C.I.C. § 1810.7 requires the Commissioner to approve providers but does not establish standards or procedures for such approval or the renewal of such approval.

Section 2105.3(a) recites the requirements for a provider to obtain approval from the Commissioner.

Subdivision 2105.3(a)(1) requires a person seeking approval to act as a bail education provider to apply for approval using a form entitled Prelicensing/Continuing Education Program Provider Certification/Renewal Application. The necessity of each item on the form is discussed below under section 2105.12.

Section 2105.3(a)(2) states that a provider shall not be approved if its application for approval is incomplete. This section is reasonably necessary to prevent applicants from attempting to compel the Department to grant approval when the applicant has not submitted to the Department all information the Department requires to evaluate the applicant's suitability for approval.

Section 2105.3(a)(2) states that an incomplete application remains active for one year unless withdrawn by the applicant, and that after one year a new application is required. This language is reasonably necessary because information on an application eventually becomes stale, and without a time limit the Department potentially would have to maintain stale applications for years in an active status, and potentially approval such stale applications.

Section 2105.3(a)(2) states that notification that an application is complete does not mean approval has been or will be granted. This language is reasonably necessary to clarify for applicants that communication from the Department that an application includes all requested information does not constitute approval for the applicant to begin acting as a provider, i.e., does not signify that the information has been reviewed by the Department to determine whether the applicant is qualified to receive approval. This language is reasonably necessary to clarify for applicants the difference between notification that an application is complete and notification that an application has been approved.

Section 2105.3(a)(2) states that the Department must decide whether to approve a provider within sixty days of receiving a completed application. This language is reasonably necessary so that applicants can obtain decisions on their requests for approval within a reasonable time.

Section 2105.3(a)(2) states that if the Department initiates an investigation of an applicant, the sixty-day period to decide on approval will toll until the completion of the investigation. If, after completion of the investigation, the applicant is referred to the Department's Legal Division, the Department will have 30 days from the date of the referral to issue a Statement of Issues pursuant to Government Code section 11504, or to issue the approval. This language is necessary because investigations can take months to complete, and the Department should not be required automatically to grant approval to a provider applicant without sufficient time to investigate the provider's qualifications and have that investigation reviewed by a Department attorney. (An applicant that believes an investigation is proceeding too slowly may petition the Superior Court for a writ of mandamus commanding the Department to either grant approval immediately or make a decision on approval within a time period deemed reasonable to a judge, but it is imprudent to require completion of an investigation within a specifically stated number of weeks or months since even the most expeditiously pursued investigations can be delayed for reasons beyond the control of the investigator, such as lack of prompt cooperation by the applicant or indispensable witnesses.)

Section 2105.3(a)(3) states that the Department may refuse to approve a provider based on any of the grounds for which it may deny an insurance agent license under Insurance Code sections 1668 or 1668.5. The regulation needs to contain a list of grounds to deny approval, since the alternative would be to leave the decision to deny approval to the unfettered discretion of the Department. Since provider approval essentially constitutes a license, it makes sense to use the same grounds that the Legislature has already prescribed for other Department licensees.

Section 2105.3(a)(4) states that a nonresident applicant for provider approval must file with the Department a form in which it agrees that in any action or special proceeding brought against the provider in the State of California, any document or process may be served on the commissioner with the same effect as though served upon the provider, and such service will give jurisdiction over the provider to the same extent as if the provider were a resident of the State of California. This language is standard with nonresident Department licensees of various types. The language is reasonably necessary to carry out the purpose of section 2105.3(a) (approving only those providers that should be approved, i.e., which are willing to make themselves easy to serve with a civil complaint) which in turn is required to implement C.I.C. § 1810.7.

The abovementioned form also has the provider agree that any action or special proceeding brought by the provider against the Commissioner will be brought in the City and County of San Francisco or in the County of Los Angeles. This language is standard with nonresident Department licensees of various types. The language is reasonably necessary to carry out the purpose of section 2105.3(a) (approving only those providers that should be approved, i.e., which are willing to agree to venue in San Francisco or Los Angeles) which in turn is required to implement C.I.C. § 1810.7.

The abovementioned form also has the provider agree that the provider will appear at the Office of the Insurance Commissioner in the City of San Francisco or in the City of Los Angeles at any time, pursuant to notice of hearing, order to show cause, or subpoena issued by the commissioner, if such document is deposited in the United States mail, certified and postage prepaid, in a cover addressed to the provider at the last address filed by it with the commissioner, such deposit in mail being 31 or more days before the date specified in such document for such appearance, and that in the event of failure so to appear the provider hereby consents to recession or denial of provider certification by the commissioner. This language is standard with Department licensees of various types. The language is reasonably necessary to carry out the purpose of section 2105.3 (a) (approving only those providers that should be approved, i.e., which are willing to accept service of process by certified mail) which in turn is required to implement C.I.C. § 1810.7.

Section 2105.3(a)(5) states that the Department may investigate and require the filing of any supplementary documents, affidavits and statements it deems necessary to obtain information that will aid in determining whether the prerequisites for approval have been met. The regulation requires this language to enable the Department to investigate the competence and honesty of applicants. Virtually identical language exists in Insurance Code Section 1666 with respect to applicants for an insurance producer license. The section is an essential or advantageous component of any rational, comprehensive regulatory scheme dealing with bail education, and is therefore desirable or necessary to implement C.I.C. § 1810.7.

Section 2105.3(a)(6) states that provider approval will be valid for two years from the date it is granted. The regulation requires this language to enable the Department periodically to reevaluate a provider's suitability to remain approved. A similar two-year license period applies to many other types of licenses granted by the Department.

Section 2105.3(b) contains various subdivisions that recite the requirements for a provider to obtain renewal of its approval from the Commissioner. This section is reasonably necessary because the Department needs to periodically reevaluate a provider's suitability to continue operating as a provider. To do that, the Department must receive and process updated information on a form.

Section 2105.3(b)(1) states that to renew approval, a provider must submit to the Department the form required to apply for initial approval, along with a renewal fee as recited in the Fee Schedule. This language is reasonably necessary to ensure that the Department biannually receives basic information about a provider so that it can perform a periodic reevaluation of the provider's suitability for retaining approval.

Section 2105.3(b)(2) states that approval as a provider may not be renewed if the renewal application is incomplete. This language is reasonably necessary because the Department needs complete information properly to reevaluate a provider's suitability to continue providing bail education.

Section 2105.3(b)(2) states that the Department must inform renewal applicants in writing if the renewal application contains deficiencies requiring correction, and the nature of those deficiencies. This language is reasonably necessary because without such notification applicants would have their applications denied and have to refile anew, which is inefficient for the Department and the applicant.

Section 2105.3(b)(3) states that renewal applications must be received by the Department at least sixty days before the provider's approval expires to maintain continuity of approval. This language is reasonably necessary because without such language applicants would have no guidance as to the period in advance of approval expiration the Department needs to process renewal applications before approval expiration.

Section 2105.3(b)(4) states that an incomplete renewal application will remain active for one year unless withdrawn by the applicant. This language is reasonably necessary because without such language applicants would have no guidance as to the period in which their renewal applications remain valid while the Department awaits additional information from them.

Section 2105.3(b)(4) states that after one year, a provider must submit a new application. This language is reasonably necessary because information on an application eventually becomes stale, and without a time limit the Department potentially would have to maintain stale applications for years in an active status, and potentially approval such stale applications.

Section 2105.3(b)(4) states that notification that an application is complete does not mean approval has been renewed or will be renewed. This language is reasonably necessary to prevent providers from misunderstanding a Department communication that an application is complete to mean the application is approved.

Section 2105.3(b)(4) states that the Department must decide whether to renew approval within sixty days of receiving a completed application. This language is reasonably necessary to give providers assurance that their renewal applications will be handled in a timely manner.

Section 2105.3(b)(5) states that a provider whose approval has expired may late renew up to 60 days after the expiration date. If the renewal is received after 60 days, the provider must re-file the provider application. In addition, if the provider has active course (s), course approval applications (s) noted in Section 2105.5 (a) must also be re-filed. This language is reasonably necessary to allow providers a reasonable grace period after approval expiration to apply for renewal without having to go through the more extensive application and review process used with first-time provider approval applicants. The 60 days was codified by the Legislature for use with other Department license types, and strikes a balance between the need for a reasonable grace period and the need not to allow licensees to renew excessively late.

Section 2105.3(b)(6) states that a provider whose approval has expired may not present a class for credit until the Department has issued a written notice of renewal. This section is reasonably necessary to prevent providers whose suitability to remain as a provider may have ended from continuing to act as a provider without approval. The section resembles other sections pertaining to various license types, e.g., a person may not legally drive with an expired driver's license.

Section 2105.3(c) requires that a provider notify the Department in writing within ten days following any change in information recorded on the Bail Provider Approval

Application form. This language is needed to permit the Department to have current information if a provider changes its name, address, controlling persons, type of business organization, or if a provider director or controlling person is convicted of a crime or disciplined by an administrative agency. The section corresponds to a section of the Insurance Code applicable to insurance agents and brokers.

Section 2105.3(d) requires that a provider obtain the Department's written consent before using a fictitious name in an act for which provider approval is required. A provider must notify the Department if it changes or discontinues use of a true or fictitious name. These requirements are necessary to allow the Department and the public to verify from Department records whether an entity that is providing bail education using a particular name is licensed as a provider. The requirement corresponds to sections in the Insurance Code and California Code of Regulations applicable to insurance agents and brokers.

Section 2105.3(d) also allows the Department to disapprove the use of a fictitious or true name, other than the legal name of an individual, on any of the following grounds:

The name interferes with or is too similar to a name already filed with the Department and in use by another approved provider;

the use of the name might mislead the public in any respect; or

the provider or applicant has already obtained approval for the use of a fictitious name and has not agreed to discontinue the use of that name. This subdivision does not prevent a provider or applicant who has lawfully purchased or succeeded to the business or businesses of other providers from using for each such business not more than two additional names, true or fictitious, consisting of names used by the predecessor businesses in their conduct as approved providers.

These provisions are necessary to prevent providers from using fictitious names that might infringe on another provider's name or mislead the public. The provisions correspond to sections in the Insurance Code and California Code of Regulations applicable to insurance agents and brokers.

Section 2105.4 – Instructor qualifications

Section 2105.4(a) states that an approved provider must ensure that each approved course is taught by an instructor who has at least three years of experience within the last five years in the subject matter of the course. The instructor must complete an Instructor Qualification form (discussed below) which must then be signed by the provider director. These provisions are necessary to ensure that instructors are competent.

Section 2105.4(b) states that the Department may direct a provider not to use an instructor who does not meet the instructor qualifications recited in this section or does not adhere to other applicable requirements stated in these regulations. This provision is necessary to ensure that instructors are competent.

Section 2105.5 – Course approval

Section 2105.5(a) states that to obtain approval of a course, a provider must submit to the Department a Bail Course Approval/Renewal Application form along with the fee recited for Insurance Code sections 1751.1(c) and (e) listed in the Fee Schedule. The necessity of each item on this form is discussed below.

Section 2105.5(b) states that a course approval application must be received by the Department at least thirty (30) days before the date the course will be presented to students for the first time. This requirement is necessary to give the Department adequate time to review the application before the course is presented.

Section 2105.5(b) states that an incomplete course approval application will remain active for one year from the date of receipt, unless withdrawn by the provider. This language is necessary to allow the Department not to have to retain on-site as active course approval applications that the provider presumably no longer has any intention of offering.

Section 2105.5(b) states that the Department must approve or reject a course within thirty (30) days of receiving an application. This language is necessary to ensure that providers obtain a course approval or disapproval decision from the Department within a reasonable time.

Section 2105.5(c) states that a provider of a classroom course must notify the Department of the classroom location(s) where the provider intends to present the course, including the street address, city, state and zip code, and the dates and times of the presentation. This language is necessary to permit the Department to conduct random audits to assure adherence to course outlines and compliance with other regulatory requirements.

Section 2105.5(c) states that the notification of classroom location(s) must be received by the Department at least ten (10) business days before each time a class in which the course will be presented is scheduled to meet. This requirement is to give the Department sufficient notice to plan a possible random audit to ensure adherence to course outlines and compliance with other regulatory requirements.

Section 2105.5(c) states that the notification of classroom location(s) must be submitted to the Department electronically, unless it has been submitted with a course approval

application. This requirement allows the Department to more efficiently process the notifications, which in turn reduces the fee the Department must charge to providers.

Section 2105.5(c) states that the classroom must allow the instructor and students to communicate with a reasonable degree of privacy and without unreasonable distractions. This language is necessary to maximize the learning process.

Section 2105.5(d) states that an advertisement for an approved course must include the name of the provider, the provider number, the course title approved by the Department, the course number, the license type for which the course is approved and the credit hours assigned. This language is necessary to minimize advertisements that are misleading by omission of material facts.

Section 2105.5(d) states that a course advertisement may mention that the course has been approved for credit by the Department of Insurance or the Insurance Commissioner only if it has been approved in writing by the Department. This language is necessary to minimize false advertisements with respect to whether a course has been approved and to minimize the occurrence of students taking courses they believe are approved which are not.

Section 2105.5(e) states that a course advertisement may mention that the course has been submitted to the Department for approval only if a completed filing pursuant to Section 2105.5(a) was submitted to the Department at least thirty (30) days before the date the course will be presented to students for the first time and that the advertisement includes a notice, in at least the same size type as any language regarding the course having been submitted for approval, that the course is pending approval. This section is necessary to prevent advertisements from being misleading as to whether a course realistically will be approved, since a course submitted to the Department for approval may not be approved despite the implication an advertisement might carry if this section did not exist.

Section 2105.5(f) states that a minor change to a course that does not affect course content or presentation time may be reported to the Department by a letter at least thirty (30) days before the change is to be implemented. A new edition of written material distributed to students with virtually identical content as an edition submitted when the course was approved may, in the Department's discretion, be considered a minor change. This language is necessary to clarify that a minor change to a course does not require that a provider submit a completely new course approval form and fee, and also to clarify one example of what may or may not be considered a minor change.

Section 2105.5(g) states that a major change is one that affects presentation time or that alters the course content, and requires approval as a new course. Use of different written materials is a major change, except as provided in subdivision (f). This language is

necessary to clarify what constitutes a major change requiring a completely new course approval form and fee, versus a minor change that does not. Without this language providers would have to submit to the Department, and the Department would have to review, new course approval applications even when the only change was minor and technical.

Section 2105.5(h) states that notification of a change in the location or date of a previously submitted class schedule, or of an additional date or location, must be submitted using electronic filing. This language allows the Department to more efficiently process the notifications, which in turn reduces the fee the Department must charge to providers.

Section 2105.5(h) states that the notification must be received by the Department at least ten business days before the meeting of the rescheduled or relocated class. This language is necessary to give the Department sufficient time to review the notification.

Section 2105.5(h) states that late submission of a class schedule change must be accompanied by a letter, signed by the provider director, explaining the lateness. This language is necessary to give the Department sufficient information to review the notification.

Section 2105.5(h) states that the Department may accept or reject the class schedule change. This language is necessary to give the Department discretion to reject late notifications that lack good cause.

Section 2105.5(i) states that credit hours are determined using a fifty (50) minute hour. Credit of less than one hour is not granted. This language is necessary to ensure that credit hours are not given for an insufficient number of minutes, and to simply calculate credit hours.

Section 2105.5(j) states that a student may not receive credit for more than eight (8) hours per day or 400 minutes per day. This language is necessary to prevent students from attempting to absorb more information in one day than can typically be learned.

Section 2105.5(k) states that a course will be approved only if all the content listed on the syllabus sufficiently relates to the legal duties and responsibilities of a bail licensee, and it will be taught in a structured manner and environment that contributes to the professional or technical competence of the student. This language is necessary to ensure that course material is relevant to bail and conveyed in a way that is beneficial to students, the bail industry, and consumers.

Section 2105.5(l) states that a course will not be approved if it includes training in sales, marketing, communication, motivation, or products or programs offered by a specific

surety. This language is necessary so that the limited number of required PRE and CE hours are focused on the more important issues of legal and ethical duties. In addition, these topics are not bail specific and do not contribute to the technical competency of the student.

Section 2105.5(m) states that a provider may not state or imply that a course, including an approved course, is endorsed by the Department. This language is necessary to prevent misrepresentation by providers.

Section 2105.5(n) states that if a scheduled class is cancelled, a provider must make a reasonable effort to notify all registrants of the cancellation, and maintain documentation of that effort. This language is necessary to prevent inconvenience to students.

Section 2105.5(o) states that credit will be given to a student who successfully completes an expired course if the course would have been renewed and the student was unaware that the course was not approved. This language is necessary to prevent innocent students from wasting time and money completing courses that, but for technical noncompliance by the provider, would have been approved.

Section 2105.5(p) states that the Department may revoke approval of a course if the course content was significantly changed without notice to the Department and the change affects the number of hours that would have been assigned to the course, or the change in content would make the course ineligible for approval. This language is necessary to allow the Department to prevent providers from altering approved courses without Department consent.

Section 2105.5(q) states that course approval will be valid for two years from the date it is granted. This language is necessary so that the Department can ensure that courses have not been intentionally or unintentionally modified by providers without requisite notice to the Department.

Section 2105.5(r) states that for an Internet course, a provider must establish to the Department's satisfaction that the provider will employ adequate measures to ensure that students are actively engaged in course material during the entire time the student is on-line, and such measures must actually be employed. This language is necessary to ensure that students do not receive credit for Internet courses if they are not engaged in the course material.

Section 2105.6 – Renewal of course approval

Section 2105.6(a) states that a provider who wants to renew approval of an unchanged course or a course with only minor changes must submit to the Department a Bail Course

Approval/Renewal Application form along with the fee recited for Insurance Code sections 1751.1(d) and (f) listed in the Fee Schedule. This language is necessary to ensure that courses are periodically reviewed to ensure that they have not been intentionally or unintentionally modified by providers without requisite notice to the Department.

Section 2105.6(b) states that a Bail Course Approval/Renewal Application must be received by the Department at least thirty (30) days before the expiration of the course's approval to maintain continuity of approval. This language is necessary to give the Department sufficient time to review renewal applications before expiration of a course's approval.

Section 2105.6(c) states that a provider may not offer a continuing education course for credit if approval of the course has expired and the Department has not yet granted a renewal. This language is necessary so that the Department can ensure that courses have not been intentionally or unintentionally modified by providers without requisite notice to the Department.

Section 2105.6(d) states that the Department may deny renewal of course approval if the course material no longer contains current information. This language is necessary to allow the Department to ensure that courses remain up-to-date.

Section 2105.7 - Maintenance of records

Section 2105.7(a) states that a provider must maintain Instructor Qualification forms for each instructor. This language is necessary so that the Department can audit providers to ensure that they have employed only qualified instructors.

Section 2105.7(b) states that a provider must maintain records of registration for students attending approved courses. A provider must maintain address information and telephone numbers for each student of a prelicensing education course. This language is necessary, among other reasons, to enable the Department to contact students who have taken courses given by a provider as part of the Department's auditing of providers.

Section 2105.7(c) states that for classroom courses, a provider must complete and maintain a daily attendance record, showing whether each student was in attendance at the beginning and end of each class session. This language is necessary as part of the Department's auditing of providers to ensure that students are not being given credit who have not attended all of a class.

Section 2105.7(c) states that the attendance record must be on the Prelicensing and Continuing Education Program Course Attendance Record and Verification form, or on a

form approved by the Department that contains the following minimum provisions: For prelicensing courses, the name, signature, and all or part of the social security number as required by the Department. For continuing education courses, the name, original or electronic signature, and insurance license number of the student; provider name and approval number; course title and approval number; date and location of the class; whether the record is for the beginning or end of a session. This language is necessary to ensure that attendance records contain sufficient information to identify each student and the course taken.

Section 2105.7(d) states that provider records must be maintained for five (5) years and must be made immediately available to the Department for inspection and copying upon request. This language is necessary to ensure that the Department can audit or investigate effectively and for a reasonable length of time.

Section 2105.7(d) states that all provider records must be maintained at a location within this State unless a Prelicensing and Continuing Education Provider Stipulation to Maintain Records Outside of California form has been submitted to and accepted in writing by the Department. This language is necessary to ensure that the Department can access provider records.

Section 2105.7(e) states that a provider must maintain sufficient records to allow an accurate and reliable audit of all fees collected from and refunded to students for prelicensing and continuing education courses. These records must include, but are not limited to, bank statements, ledgers, journals, receipt books, invoices and checks. This language is necessary to ensure that the Department can properly audit providers with regard to their handling of student fees.

Section 2105.7(f) states that a provider must maintain for at least two years a copy of each advertisement and solicitation that refers to a prelicensing or continuing education course. Upon good cause, the Department may require a particular provider to retain copies for a longer period. This language is necessary to ensure that the Department can properly investigate occurrences of misleading advertisements.

Section 2105.7(g) states that for a correspondence course, a provider must maintain a declaration signed by each student under penalty of perjury, under the laws of the State of California, declaring that the student was engaged with the course material for the entirety of the prescribed time. This language is necessary to better ensure that students are actually engaged in course material when not in a classroom under the supervision of an instructor.

Section 2105.7(h) states that for an Internet course, a provider must maintain a description of the measures taken to ensure that students are actively engaged in the course material for the entirety of the prescribed time.. This language is necessary to

better ensure that students are actually engaged in course material when not in a classroom under the supervision of an instructor.

Section 2105.7(i) states that a provider must employ all reasonable means to maintain personal information of students in a secure and confidential manner. This language is necessary to protect students from intentional or inadvertent violations of their privacy rights.

Section 2105.8 - Successful completion of a prelicensing course

Section 2105.8(a) states that to obtain credit for a prelicensing course a student must attend one-hundred percent of the class. This language is necessary to ensure that students do not receive credit they have not earned by fully attending a class.

Section 2105.8(b) states that a provider or instructor must withhold credit when a student did not pay satisfactory attention, or otherwise failed to act acceptably in class. This language is necessary to ensure that students do not receive credit they have not earned by paying adequate attention in class, or they do not deserve to receive for some other reason.

Section 2105.9 - Successful completion of a continuing education course

Section 2105.9(a) states that to obtain credit for a continuing education course a student must attend one-hundred percent of the class, if the course was provided in a classroom. However, an instructor or provider director may for good cause allow a student to attend not less than eighty percent of a scheduled class and receive full credit. A provider or instructor must withhold credit when a student did not pay satisfactory attention, or otherwise failed to act acceptably in class. This language is necessary to ensure that students do not receive credit they have not earned by paying adequate attention in class, or they do not deserve to receive for some other reason. This language is necessary to ensure that students do not receive credit they have not earned by sufficiently attending a class.

Section 2105.9(b) states that a course may not be taken for credit more than once during a renewal period. This language is necessary to fulfill the legislative intent that CE credits within a renewal period be for different courses, not the same course taken multiple times.

Section 2105.9(c) states that successful completion of a continuing education course by means of the Internet or correspondence shall require the student to obtain a passing grade of at least 70 percent on a written final examination. The final examination must be

open book and must be graded by the approved provider. The provider must issue certificates of completion only to those students who have passed the final examination. This language is necessary to ensure that students actually learn a sufficient amount of course material when they take a non-classroom course.

Section 2105.10 - Certificates of completion

Section 2105.10(a) states that a provider must give a certificate of completion to each student who successfully completes a prelicensing or continuing education course. A duplicate certificate of completion must be issued by a provider upon request in the case of a lost or destroyed certificate. This language is necessary to ensure that students are given evidence of their course completion to retain in case other records of course completion maintained by the Department or the provider become unavailable.

Section 2105.10(a) states that a certificate of completion must contain the following information: An original signature of the student and the instructor or provider director; the course title and approval number; the provider's name, address, telephone number and provider approval number; for classroom courses the date(s) of the class, the date completed, and the class location (including street address, city, zip code; the number of hours approved for the course; a statement that submitting a false or fraudulent certificate of completion to the Department may result in denial of a license application and revocation of a license; a statement that the student should retain the certificate for five years. This language is necessary to ensure that the certificates contain all the information a student may need about his or her course completion.

Section 2105.10(b) states that a provider must submit to the Department using electronic filing a roster of students given certificates of completion. This language is necessary to allow the Department to record course credits for licensees in the most efficient manner, which in turn reduces the fee the Department must charge to providers.

Section 2105.10(b) states that a roster is to be submitted within ten (10) business days following completion of a prelicensing course. A roster is to be submitted within thirty (30) calendar days following the completion of a continuing education course. This language is necessary to ensure that the Department receives prompt notification of credits earned by licensees, so it can in turn note those credits on the licensee's record in a timely manner. Timely awarding of credits is necessary to allow for timely issuance and renewal of licenses, which are dependent on PRE and CE completion.

Section 2105.10(b) states that under special circumstances approved in advance by the Department, a provider may submit a typed or printed roster form. The roster must contain the following: the student's name, social security number and insurance license number (if any); the provider's name and approval number; the course title and approval

number; the date(s) of the course, the date completed, and the location (including street address, city, and zip code) of the class; the number of hours approved for the course; the signature of the provider director certifying the accuracy of the information provided; the name of the instructor. This language is necessary to provide a means to record credits in the event electronic filing is impossible due to hardware or software problem, or some other unforeseen situation.

Sections 2105.11 – Enforcement

Sections 2105.11(a) states that the Department may revoke or suspend approval of a provider, issue approval on a restricted basis, and/or impose a monetary penalty, if: a basis exists that would have authorized the Department to deny approval to the provider; the provider violated these regulations or applicable provisions of the Insurance Code; the provider failed to exercise reasonable care in evaluating the competency, good character, and integrity of an instructor; or the provider allowed another person to use the provider's approved provider status or course approval status. This language is necessary to deter and protect the public from violations of the Insurance Code or these regulations. This language is necessary to deter providers from employing, and students from being subjected to, unqualified instructors.

Sections 2105.11(b) states that a provider whose approval is revoked or suspended, or upon whom a monetary penalty is imposed, must reimburse the Department for its costs of investigating and prosecuting the provider for the violation. This language is necessary to minimize the fees paid by honest and competent providers by having dishonest and/or incompetent providers pay for the costs of investigation and prosecution through reimbursement of those costs, rather than having those costs borne by honest and competent providers through higher fees.

Sections 2105.11(c) states that Insurance Code section 1742 shall apply to providers. For such purposes, "approval" shall be interpreted the same as "license." When warranted, the Department may issue a restricted approval, or may revoke an unrestricted approval and issue a restricted approval in lieu thereof. This language is necessary to provide the Commissioner with the option of placing a provider on probation when warranted.

Sections 2105.11(d) states that a provider shall be considered a "subject person," and be chargeable as such pursuant to Insurance Code section 1748.5. This language is necessary to provide the Commissioner with authority existing in the Insurance Code for insurance agents and brokers with respect to indicted or convicted persons, and providers that pose a threat of imminent harm.

Sections 2105.11(e) states that an unapproved provider or person representing that provider who states or implies that the provider is approved shall be chargeable pursuant

to Insurance Code section 12921.8 as if the provider were an unlicensed insurance agent. This language is necessary to better deter unlicensed providers by giving the Commissioner authority to impose fines on unlicensed providers for their unlicensed activity.

Sections 2105.11(f) states that Insurance Code sections 1669 and 1738 shall apply to approval as a provider and to an application for approval as a provider. This language is necessary to give the Commissioner authority to summarily deny or revoke provider approval under the same circumstances in which the Commissioner may do so for insurance agents and brokers.

Sections 2105.11(g) states that a provider must pay the below monetary penalties, plus any investigation and prosecution costs, for the following violations. This language is necessary to deter violations.

Violation of Section	Penalty
Section 2105.3(a) – Provider approval	Automatic denial of any pending application for provider approval, and automatic denial of any application for provider approval filed within twenty four (24) months following the date on which course material was given to a student. Revocation of any approval already issued.
Section 2105.3(b) – Renewal of provider approval	A fine of one and one-half (1½) times the amount of the course fees charged to all students completing courses provided after approval as a provider has expired and not yet been renewed, or \$1,000 per course, whichever is more.
Section 2105.3(c) – Changes in provider information	\$500 fine per failure to notify the Department of a change in provider information.
Section 2105.3(d) – Fictitious name	\$10,000 total maximum fine for all uses of a particular unapproved fictitious name.
Section 2105.4(a) – Qualified instructor	\$5,000 fine for each class taught by an instructor when either requirement of section 2105.4(a) has not been met.
Section 2105.4(b) – Use of disqualified instructor	Automatic revocation of provider’s approval for permitting a person to act as an instructor after express disapproval by the Department.
Section 2105.5 – Course approval	A fine of one and one-half (1½) times the

	amount of the course fees charged to all students for all courses for which the course had not been approved, or \$1,000 per course, whichever is more.
Section 2105.5(c) – Notification to Department of classes	\$500 fine for each violation.
Section 2105.5(d), (e) and (m) – Advertisement of courses	\$500 fine for each violation of (d) or (e); \$10,000 fine for each violation of (m).
Section 2105.5(g) – Approval of course with major change	A fine equal to 50 percent of the amount of the course fees charged to all students completing courses after a major change without Department approval, or \$1,000 per course, whichever is more.
Section 2105.5(h) – Notification of class change	\$500 fine for any violation.
Section 2105.5(i) and (j) – Credit	A fine equal to 50 percent of the amount of the course fees charged to all students completing courses in which credit is awarded in violation of subdivisions (i) or (j), or \$1,000 per course, whichever is more.
Section 2105(n) – Class cancellation	\$1,000 fine for each violation
Section 2105.6(c) – Expired courses	A fine equal to 50 percent of the amount of course fees charged to all students for all courses for which the course expired and not yet been renewed, or \$1,000 per course, whichever is more.
Section 2105.7 - Maintenance of required records...	\$100 fine per record for each failure to maintain a required record or provide it upon request to the Department.
Section 2105.8 - Credit	A fine equal to 50 percent of the amount of the course fees charged to all students completing courses in which credit is awarded in violation of subdivisions (a) or (b).
Section 2105.9(a) and (c) Successful	A fine equal to 50 percent of the amount of the

completion of a continuing education course	course fees charged to all students completing courses in which credit is awarded in violation of subdivisions (a) or (c).
Section 2105.10(a) – Certificates of completion.	\$200 fine per certificate for each certificate that a provider fails to provide to a student who has successfully completed a course.
Section 2105.10(b) – Attendance rosters.	\$500 fine per roster for each roster that a provider fails to submit on time to the Department using electronic filing.
Insurance Codes C.I.C. § 1810.7(c) – Course fees.	\$1,000 fine for each student charged a larger fee for a course than the lowest fee charged to any other student taking the same course at the same time.

Sections 2105.11(g) states that the existence of this monetary penalty schedule does not preclude the Department from revoking or suspending the approval of a provider, in addition to or in lieu of imposing a monetary penalty, if the facts warrant. This language is necessary to maximize deterrence, and to give the Commissioner discretion to impose greater sanctions than recited in the schedule when warranted.

Sections 2105.11(g) states that the Department may impose a monetary penalty without commencing a formal enforcement action pursuant to California Government Code sections 11500 *et seq.* However, if a provider upon whom such a penalty has been imposed requests a hearing within 10 business days of receiving written notice of the penalty, the Department must serve an Accusation pursuant to those sections or rescind the penalty. This language is necessary to provide for the efficient administration of justice while according due process.

Sections 2105.11(g) states that the fact that a violation is not recited in the schedule does not mean that a monetary penalty, suspension or revocation may not be imposed by the Department. This language is necessary because not all violations are recited in the schedule.

Section 2105.12 - Prelicensing/Continuing Education Program Provider Certification/Renewal Application form

The form asks the provider to indicate by checkmark whether the application is for an original filing, a renewal, or a change in provider director. This information is necessary

so that a single form can be used for each of these purposes.

The form asks the provider to supply its provider number. This information is necessary so the Department can properly file information related to it for future retrieval.

The form asks the provider to check whether the form is being used with respect to CE or PRE. This information is necessary so the Department can ensure that the different fees and requirements for each type of provider has been complied with.

The form asks the provider to indicate whether it is a sole proprietor, corporation, partnership, or association. This information is necessary so the Department can determine what additional information it requires based on the type of business.

The form asks for the SSN or FEIN of the person or entity. This information is necessary to perform a background investigation.

The form asks the provider to supply its name. This information is necessary so the Department can properly refer to the provider and file information related to it for future retrieval.

The form asks the provider to state whether it intends to use a fictitious (DBA) name, and if so, what that name is. This information is necessary so the Department can properly refer to the provider and file information related to it for future retrieval.

The form asks the provider to supply its business, mailing, and record storage addresses. This information is necessary so the Department can contact the provider by mail or in person.

The form asks the provider to supply its phone and fax numbers. This information is necessary so the Department can contact the provider by phone and fax.

The form asks the provider to supply the name, phone and fax numbers of a record storage contact person. This information is necessary so the Department can contact the provider's record storage contact person by phone and fax.

The form asks the provider to supply the name, residence address, phone and fax numbers, and E-mail address of a provider director, i.e., the individual within the provider organization with responsibility for the administration of the programs approved by the Commissioner. This information is necessary so the Department can contact a designated responsible person within the provider organization.

The form asks the provider to supply provider director's qualifications (experience [i.e. insurance, teaching], professional designations, degrees, licenses held, etc.). This

information is necessary so the Department can ensure that the designated responsible person within the provider organization is qualified to possess that role.

The form asks the provider to state whether the provider is now using or has ever used any name other than the ones listed previously in the form. This information is necessary so the Department can perform a proper background investigation of a provider approval applicant.

The form asks the provider to state whether it has submitted to the Department within the last year a filing for which an approval has not been issued. This information is necessary so the Department can avoid duplicating a background investigation or granting approval to an applicant already determined not to be qualified.

The form asks a corporate or association provider applicant to list the names, addresses and SSN's of its officers, directors, and major shareholders as defined. This information is necessary so the Department can conduct a proper background investigation.

The form asks a partnership provider applicant to list the names, addresses and SSN's of its partners. This information is necessary so the Department can conduct a proper background investigation.

The form asks a sole proprietor provider applicant to list his or her name, address and SSN's. This information is necessary so the Department can conduct a proper background investigation.

The form asks a corporate provider applicant to supply a copy of its articles of incorporation. This is to ensure that acting as a provider would not be *ultra vires*. Association articles of association are requested for the same reason.

The forms states that if the applicant is an admitted insurer and there has been no change in officers, directors or stockholders owning 10% or more interest in the organization since last official filing with the Department to submit a letter so stating. This is to allow an insurer to avoid having to resubmit this information.

The form recites a personal information notice: "Pursuant to the Federal Privacy Act (P.L. 93-579) and the Information Practices Act of 1997 (Civil Code Section 1798, et seq.), notice is hereby given for the request of personal information by this form. The requested personal information is voluntary. The principle purpose of the voluntary information is to facilitate the processing of this form. The failure to provide all or any part of the requested information may delay processing of this form. No disclosure of personal information will be made unless permissible under Article 6, Section 1798.2 of the IPA of 1997. Each individual has the right upon request and proper identification, to inspect all personal information in any record maintained on the individual by an

identifying particular.” This information is necessary to comply with Federal and State laws.

The form asks if there is there any person within the organization, other than previously listed, who acts in the capacity of a Controlling Person as defined in Section 1668.5 of the California Insurance Code, who possesses decision making authority in matters pertaining to prelicensing and/or continuing education, and if so, the names, residence addresses, and social security numbers of such person(s). This information is necessary to perform a proper background investigation.

The form asks if the organization or any of its partners, members, controlling persons, officers, directors, or any shareholders owning a 10% or more interest in the organization, has been the subject of any administrative agency disciplinary action. “For the purpose of this question, administrative agency disciplinary action includes but is not limited to: having any professional, vocational or business license denied, suspended, placed on probation, restricted or revoked, or any fine imposed; withdrawing any application or surrendering any license to avoid disciplinary action; being issued a cease and desist order or its equivalent; being the subject of a conservation, liquidation, rehabilitation or receivership order.” This information is necessary as part of a proper background investigation.

The form asks if the organization or any of its partners, members, controlling persons, officers, any shareholders owning a 10% or more interest in the organization, has ever been convicted of a crime. “Crime” includes a felony or misdemeanor and military offenses. “Convicted” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, having had any charge dismissed, expunged or plea withdrawn pursuant to Penal Code Section 1203.4, or having been given probation, a suspended sentence or a fine. You may exclude traffic citations and juvenile offenses. **IMPORTANT NOTE:** If the answer is “YES” to question (22) or (23) above, attach a detailed statement, signed by an authorized person for the organization, listing the events which led to the charges (dates and places). If the matter was heard in court, attach copies certified by the court of the Criminal Complaint and the Sentencing Minute Order showing the final plea, judgment and sentence. If any disciplinary action was taken by an administrative agency, attach a certified copy of the action.” This information is necessary as part of a proper background investigation.

The form asks if the organization is registered with the Bureau for Private Postsecondary and Vocational Education, and, if so, the approval number issued by that agency. This information is desirable to assist the Department to establish the provider's qualifications for approval.

The form asks the provider to describe the organization's experience in offering educational programs to insurance licensees. This information is reasonably necessary to

assist the Department in establishing the provider's competency to act as a provider.

The form asks the provider to submit a complete statement of its refund policy and to describe how this policy will be transmitted to students before registration. This information is reasonably necessary to assist the Department in establishing the provider has and will communicate to students a fair refund policy.

The form asks the provider to indicate the methods of instruction, i.e., contact (classroom), non-contact (correspondence or Internet) or both. This information is reasonably necessary for the Department to obtain other information necessary to establish the provider's qualifications.

The form asks for additional information for contact courses:

1) Sample of attendance record forms proposed for use meeting the requirements of section 2105.7(c). This information is reasonably necessary to ensure that the attendance record forms the provider intends to use comply with section 2105.7(c).

2) Sample of certificates of completion. This information is reasonably necessary to ensure that the certificates of completion forms the provider intends to use comply with section 2105.10(a).

The form asks for additional information for non-contact courses:

1) How long students have to complete the course and how that information transmitted to them? This information is reasonably necessary to ensure that students are not given too long or too short a time to complete a course, and are properly apprised of time limitations.

2) The provider's method for determining what date to use as the course completion date and how that information communicated to students. This information is reasonably necessary to ensure that students who need to complete a CE course to renew a license know how the provider establishes the effective date of completion.

3) How the provider intends to protect the integrity of the examination, e.g., who has control of the answer key(s); what is a passing grade; if someone fails the examination may he or she retake it, and, if so, how many times and would it be the same examination; and whether the provider returns examinations to students or discusses answers with them. This information is reasonably necessary to ensure that examinations demonstrate that the student actually learned the material presented in a non-contact course.

4) A copy of the provider's instruction sheet that goes to the student upon registration. This information is reasonably necessary to ensure that students are properly informed of relevant information regarding taking a non-contact course from the provider.

5) A sample of the provider's certificate of completion. This information is reasonably necessary to ensure that the certificates of completion forms the provider intends to use comply with section 2105.10(a).

The form asks the provider to supply a certification as follows: "I agree to (a) maintain records of enrollments, attendance, examination grades and other pertinent information as requested by the commissioner for a period of five years (b) provide certificates of completion to those students who successfully complete courses (c) use only qualified instructors to conduct courses (d) timely provide the commissioner with completed course approval applications for programs submitted for credit approval, and (e) comply with the prelicensing and continuing education regulations and all applicable California Insurance Code sections. Further, I certify under penalty of perjury that I am the person who has responsibility for the administration of the operations contained in this application; that the information contained in this application is true and correct; and that no approved course will be offered for credit unless the organization holds an active provider approval status. Lastly, I understand that I must promptly report to the commissioner any changes in the information contained in this form." This information is reasonably necessary to ensure that a provider and provider approval applicant understands and agrees to comply with the regulations applicable to them.

The form contains filing instructions:

"This form must be completed by each entity desiring to be certified or to renew certification as a prelicensing or continuing education provider." This information is reasonably necessary to explain the purpose of the form.

"Type or print clearly in ink. All sections of this form must be completed and submitted with proper attachments and filing fees to the Department. Attach additional sheets if more space is needed to answer questions."

This information is reasonably necessary to ensure that forms are fully completed and are legible.

"Please send this completed application, other required attachments and a NON-REFUNDABLE \$64.00 filing fee as stated Section 1751.1 on the Schedule of Fees to:
California Department of Insurance
Make checks Producer Licensing Bureau - Education Section
payable to: P.O. Box 957
Sacramento, CA 95812-0957
Education Section Inquiries: (916) 492-3064"

This information is reasonably necessary to convey to persons completing the form the applicable fee and where to send the form.

Section 2105.13 - Out-of-State Provider Jurisdiction Agreement form

The form instructs: "This form must be completed by every provider and provider applicant whose head office is located outside of California." This information is reasonably necessary to apprise persons as to who must complete the form.

The form asks for the provider's provider number, provider name, telephone: number, and address. This information is reasonably necessary so the Department can contact the provider if necessary, and properly file the form for future retrieval.

The form contains a stipulation that reads: "On behalf of the above named provider, I stipulate and agree:

(a) That in any action or special proceeding brought against the provider in the State of California, any document or process may be served on the commissioner with the same effect as though served upon the provider, and such service will give jurisdiction over the provider to the same extent as if the provider were a resident of the State of California.

(b) That any action or special proceeding brought by the provider against the Insurance Commissioner of the State of California will be brought in the City and County of San Francisco or in the County of Los Angeles.

(c) That the provider will appear at the Office of the Insurance Commissioner in the City of San Francisco or in the City of Los Angeles at any time, pursuant to notice of hearing, order to show cause, or subpoena issued by the commissioner, if such document is deposited in the United States mail, certified and postage prepaid, in a cover addressed to the provider at the last address filed by it with the commissioner, such deposit in mail being 31 or more days before the date specified in such document for such appearance, and that in the event of failure so to appear the provider hereby consents to recession or denial of provider certification by the commissioner." This stipulation is reasonably necessary for the reasons recited above in the discussion of section 2105.3(a)(4).

Section 2105.14 - Prelicensing/Continuing Education Program Instructor Qualification form

The form instructs "This form must be completed by each proposed instructor, lecturer, moderator or person conducting a classroom course, seminar, workshop, conference, etc. Type or print clearly in ink. Provider director must verify the information provided by the instructor. Do not submit this form to the department. Please retain this form in your files for five years. Attach additional sheets if more space is needed to answer questions." This instruction is reasonably necessary to apprise providers and instructors as to who must complete the form and how.

The form asks for the provider's provider number, provider name, telephone, number, and address. This information is reasonably necessary so the Department, if it audits the forms, has a self-contained document that associates the provider with the instructor.

The form asks for the instructor's name, residence phone, and residence address. This information is reasonably necessary so the Department, if it audits the forms, has a self-contained document that associates the provider with the instructor.

The form asks for the course titles and course numbers to be taught by the instructor. This information is reasonably necessary to investigate the instructor's qualifications.

The form asks the instructor to describe his or her experience in the course subject matter. This information is reasonably necessary to review the instructor's qualifications.

The form asks if the instructor holds or has ever held an insurance license, and if so, for the license type, license number, state or province, and dates license held. This information is reasonably necessary to review the instructor's qualifications.

The form asks if the instructor has a college degree in the subject matter being taught, and if so, the name of college or university, course of study, and degree date completed. This information is reasonably necessary to review the instructor's qualifications.

The form asks if the instructor holds a recognized professional insurance designation and the date earned, such as LUTC, CLU, AAI, CPCU, CIC, or other. This information is reasonably necessary to review the instructor's qualifications.

The form asks if the instructor holds a recognized professional credential in the subject matter being taught, and, if so, the type of credential, credential number, date earned, and the state or province that issued it. This information is reasonably necessary to review the instructor's qualifications.

The form asks if the instructor has ever been an instructor for another approved prelicensing or continuing education provider, and, if so, the provider names, dates and reasons for leaving. This information is reasonably necessary to review the instructor's qualifications.

The form asks if the instructor has ever been the subject of any administrative agency disciplinary action. It defines "administrative agency disciplinary action" to include, but not as being limited to: having any professional, vocational or business license denied, suspended, placed on probation, restricted or revoked, or any fine imposed; withdrawing any application or surrendering any license to avoid disciplinary action; being issued a cease and desist order or its equivalent; being the subject of a conservation, liquidation,

rehabilitation or receivership order. This information is reasonably necessary to review the instructor's qualifications.

The form asks if the instructor has ever been convicted of a crime, defines crime to include a felony or misdemeanor and military offenses, and "convicted" to include, but not be limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, having had any charge dismissed, expunged or plea withdrawn pursuant to Penal Code Section 1203.4, or having been given probation, a suspended sentence or a fine. You may exclude traffic citations and juvenile offenses. This information is reasonably necessary to review the instructor's qualifications.

If the answer to either the crime or administrative disciplinary action questions is yes, the form asks the instructor to attach a signed, detailed statement listing the events that led to the charges (dates and places), and to attach certified copies of the Criminal Complaint and the Sentencing Minute Order showing the final plea, judgment and sentence, and/or the disciplinary action taken by an administrative agency. This information is reasonably necessary to review the instructor's qualifications.

The form asks the instructor to certify under penalty of perjury that the information contained in the application is true and correct and that nothing has been withheld that would influence a complete evaluation of the instructors qualifications and conduct as an instructor. This information is reasonably necessary to obtain candid responses on the form.

The form states that the instructor, by signing the application, understands that the completed application will be maintained by the provider and made available to the commissioner as requested. This information is reasonably necessary to obtain candid responses on the form.

The form contains a provider verification that states: "I certify under penalty of perjury that I have reviewed and verified the qualifications of the instructor named above. To the best of my knowledge and belief, this person meets at least one of the following instructor qualification requirements as stated in sections 2188.1 or 2105.4 of the California Code of Regulations."

Three years experience within the last five years in the course subject matter, which experience may include holding an appropriate insurance license for the subject being taught.

Possession of a college degree in the subject matter being taught.

Possession of a related recognized professional designation in the subject matter being taught.

Possession of a related recognized professional credential in the subject matter being taught."

This language is reasonably necessary to encourage providers to review and verify instructor qualifications, and to record the provider's verification.

The form states "Do not submit this form to the Department. Please retain this form in your files for review during a provider audit." This language is reasonably necessary to remind providers not to submit the form to the Department, but rather to retain it in the provider's files for review during a provider audit.

Section 2105.15 - Bail Course Approval/Renewal Application form

The form contains instructions: "This form must be completed for each course to be approved. A completed application with the proper attachments and filing fee must be received in the Department at least 30 days prior to the first course presentation. Courses must be a minimum of one hour; no fractional hours are granted." This information is reasonably necessary to explain when to use the form, when to submit it, and that a course must be a minimum of one hour.

The form asks for the first course presentation dates. This information is reasonably necessary so the Department can know when the provider plans to first offer the course, and time its review accordingly.

The form asks for the provider name, provider number, and provider's address and phone number. This information is necessary so the Department can associate approved and disapproved courses with the provider who seeks or sought to offer them, properly file the form for future retrieval, and contact the provider with any questions.

The form asks for the course title and, if the provider is using the form to renew course approval, the course number. This information is reasonably necessary to keep track (by course title and course number) of which courses have been approved.

The form asks the provider to indicate the course type (PRE or CE), number of hours requested, instruction method (contact, correspondence, or Internet). This information is reasonably necessary for the Department to be able to apply the proper approval criteria, which varies by number of hours, instruction method, and course type.

The form asks the provider whether the Department should include the course on the Department's list of courses open to public. This information is reasonably necessary so the Department can know whether to list the course on the Department's list of courses open to public.

The form asks if the written proof of consultation required pursuant to C.I.C. § 1810.7 (c) is attached, and, if not, when it will be received by the Department. This information is

reasonably necessary so the Department can ensure compliance with the consultation requirement without insisting that a provider submit proof of consultation to the Department concurrently with the course approval application.

For contact courses, the form asks for a detailed statement on how the course is relevant to bail topics and products. This information is reasonably necessary for the Department to determine whether the course should be approved, since a course should not be approved if it is not relevant to bail topics or products.

For contact courses, the form asks for a detailed outline of approximately one page per hour of instruction including the time each topic is being presented. For contact courses, the form asks for a copy of all materials presented to each student if a detailed outline is not submitted with the application. This information is reasonably necessary for the Department to verify that sufficient information is being imparted for the amount of credit to be given and that the information is relevant for bail course instruction.

For contact courses, the form asks for an agenda showing the beginning and ending times, breaks, and time allotted for examinations, if applicable. This information is reasonably necessary for the Department to ensure that the number of credit hours to be given corresponds to the number of classroom hours.

For contact courses, the form asks for a completed Class Presentation Schedule form for each presentation. The necessity of the class presentation schedule is discussed below.

For contact courses, the form asks for a current authorization letter from the author or publisher if the provider is using another vendor's source material as the basis for the course. This information is reasonably necessary to prevent a provider from infringing on a copyright with Department approval.

For contact courses, the form asks for PRE courses, for a cross-reference between the lines of the prelicensing curriculum and educational objectives and the page numbers of the source book(s) to be used. This information is reasonably necessary to ensure that each item of the prelicensing curriculum and educational objectives is covered by a sufficient number of pages in the source book(s).

For correspondence and Internet courses, the form asks for a detailed statement on how the course is relevant to bail topics and products. This information is reasonably necessary for the Department to determine whether the course should be approved, since a course should not be approved if it is not relevant to bail topics or products.

For correspondence and Internet courses, the form asks for an audio cassette, video tape, computer diskette, text book for the course, or, if the provider will be using another vendor's already approved material/book, a copy of the text cover, copyright page and

table of contents. This information is reasonably necessary for the Department to evaluate the quality of the instructional material and to determine if the provider is using the most current edition of another vendor's material or book.

For Internet courses, the form asks for the provider's Internet address, security measures, and log-on and password, and instructs that answers to examination questions must reference section and screen for answer source. This language and information is reasonably necessary for the Department to evaluate the quality of the instructional material.

For correspondence and Internet courses, the form asks for a copy of the examination with the questions not in chapter order. This information is reasonably necessary for the Department to evaluate the quality of the examination.

For correspondence and Internet courses, the form asks for answers to all examination questions with page and paragraph referencing to the source book(s) used. This information is reasonably necessary for the Department to be able to evaluate examinations.

For correspondence and Internet courses, the form asks for a current authorization letter from the author or publisher if using another vendor's source material. This information is reasonably necessary for the Department to evaluate the quality of the instructional material.

For correspondence and Internet courses, the form asks for the instruction sheet sent to students. This information is reasonably necessary for the Department to evaluate the presentation of the course.

For an Internet course, the form asks for a description of the measures the provider will employ to ensure that students are actively engaged in course material during the entire time the student is on-line. This information is reasonably necessary for the Department to be able to verify that means exist to ensure that students do not simply log-on to the provider's site and receive credit though they are not actually reading the screens.

The form contains the following certification: "I certify under penalty of perjury that I have read and understand the information and requirements contained in this application, that all statements are true and nothing has been withheld which would influence a complete evaluation of this course." This language is reasonably necessary to better ensure complete and accurate answers and information are provided on and with the form.

The form contains the following filing instructions:

Please send the completed application, other required attachments and the following NON-REFUNDABLE filing fee as stated Section 1751.1 on the Schedule of Fees to:

California Department of Insurance
Producer License Bureau – Education Section
P.O. Box 957
Sacramento, CA 95812-0957

Filing Fees:
\$32 per Continuing Education Course
\$64 per Prelicensing Education Course

Make checks payable to: California Department of Insurance

Attach additional sheets if more space is needed to answer questions.

Course applications must be received in this office at least 30 days prior to the first course presentation date. Course advertisements for pending courses must clearly state that the course has been submitted and is pending approval, if the course application is complete and submitted within the appropriate time frame.

This language is reasonably necessary to inform providers how to complete the form, where and when to send the form, and the amount of the fee.

Section 2105.16 - Class Presentation Schedule form

The form contains instructions: "Type or print clearly. Use a separate sheet for each class presentation. To inform the Department of a new class, mark NEW box and provide all pertinent information below. To notify the Department of a change to a class schedule previously submitted, mark CHANGE, give the original date, time, location and provide new information below. To cancel a class previously submitted, mark CANCEL and complete information below. This completed form must be received by the Department at least 14 days prior to the original class presentation. Subsequent presentations must be received at least 10 days prior to class presentation. No faxes will be accepted. Late schedules may not be accepted and attendees may not receive continuing education credit. The information provided below must match the information on the certificate of completion and the provider roster." This information is reasonably necessary to explain when to use the form, how to complete it, and when to submit it.

The form asks whether the form is being used to submit a new class presentation schedule, to submit a change in a formerly submitted class presentation schedule

(and, if so, the original date, time and location submitted), or to advise the Department that a previously submitted class presentation schedule is being cancelled. This information is reasonably necessary so the Department can review the form with the provider's purpose for submitting the form in mind.

The form asks for the provider # and name. This information is reasonably necessary so the Department can associate the class presentation schedule with the provider submitting it.

The form asks for the course id#: , credit hours, instructor name, course name, start date, start time, end date, and end time. This information is reasonably necessary so the Department can associate the class presentation schedule with the course.

The form asks for the location of the class. This information is reasonably necessary so the Department may audit the class and so the Department can associate and validate the class presentation schedule with the provider roster.

The form asks for the date, beginning time, and ending time for each day the class will be presented. This information is reasonably necessary so the Department may audit the class and so the Department can associate and validate the class presentation schedule with the provider roster.

The form contains a certification by the provider director which reads: "I certify that the class information provided here is true and correct to the best of my knowledge. Any changes will be provided to the Department promptly." This information is reasonably necessary so the Department can better ensure that the information is true and correct and that it will be informed if the information changes.

Section 2105.17 - Prelicensing and Continuing Education Program Course Attendance Record and Verification form

The form asks for the course number, course title, provider number, provider name, class location, and class date(s). This information is reasonably necessary so the Department can track and record students' compliance with the PRE and CE requirements.

The form contains a verification which reads: "I have reviewed and verified that the persons named on the attached Course Attendance Record Sheet(s), consisting of ___ pages, were present at this class during the times and days indicated." The verification contains a space for the instructor's signature. This language is reasonably necessary to ensure that student attendance has been confirmed by the instructor.

The form contains a certification which reads: "I have reviewed this Course Attendance Record Verification and the attached Course Attendance Record Sheet(s), and certify that I find them accurate and in order, to the best of my knowledge." The certification contains a space for the provider director's signature. This language is reasonably necessary to ensure that student attendance record sheets and verifications are accurate and truthful.

The form includes a course attendance record sheet containing spaces for the provider #, provider name, course #, course name, date, class begin time, class end time, session #, location, and instructor's name. This information is reasonably necessary to know which course the student attended, and what percent of the class time the student attended.

The form states: "NOTE: Those students who do not sign in and out will not be granted continuing education credit." This language is reasonably necessary to encourage students to sign in and out.

The form asks the student to print and sign (under penalty of perjury) his or her name, give his or her SSN, and state his or her time in and time out. This language is reasonably necessary to record each student's attendance.

The form states: "The Department requests disclosure of a student's social security number pursuant to Insurance Code Sections 1749, 1749.2, 1749.3, 1749.4, 1749.5, 1749.7, and California Code of Regulations, Title 10, Chapter 5, Section 2188.4(b)(1). This information is requested so that the Department can properly identify and assign credit to students who have completed prelicensing or continuing education courses. While a student's disclosure of his or her social security number here is not mandatory, any failure to provide this information may delay or otherwise impede the Department in assigning credit for the completion of such courses to the appropriate students." This language is reasonably necessary to comply with privacy laws.

Section 2105.18 - Prelicensing and Continuing Education Provider Stipulation to Maintain Records Outside of California form

The form states: "The undersigned, as provider director of a prelicensing or continuing education provider duly authorized by the California Department of Insurance, has requested the Commissioner's authorization to maintain provider records at a location outside of California." This language is reasonably necessary to effect a provider request to maintain provider records at a location outside of California.

The form states: "In consideration of the Commissioner's granting of authorization to maintain the records described in Title 10 California Code of Regulations sections 2105.7

and 2188.4 at a location outside of California, the undersigned provider director, on behalf of the duly authorized education provider, agrees to reimburse the California Department of Insurance for the expense of travel for the Commissioner's agent to conduct routine records examinations. Any refusal by a provider to reimburse the California Department of Insurance shall constitute grounds for automatic termination of the Commissioner's authorization to maintain records outside of the state, and may also be considered in any subsequent hearing on the rescission of provider status. This agreement will remain in force concurrent with the provider's certification period." This language is reasonably necessary to enable the Commissioner to recoup the expense of travel for the Commissioner's agent to conduct routine records examinations out-of-state when a provider elects to maintain records out-of-state.

Section 2105.19 - Provider Roster form

The form contains instructions that read: "Important: This form must be submitted to the California Department of Insurance (CDI) within 10 days following the completion of the prelicensing course and 30 days following the completion of the continuing education or training course. Late rosters may not be accepted. Items marked with an asterisk (*) are not required for non-contact courses." This information is reasonably necessary to inform providers when the form must be submitted, and that certain information may be omitted if the course is non-contact.

The form asks if the course is PRE or CE, contact or non-contact. This information is reasonably necessary to enable the Department to properly give credit to students.

The form asks for the provider # and name. This information is reasonably necessary so the Department can associate the class presentation schedule with the provider submitting it.

The form asks for the course ID #, the credit hours, the course name, the course start date, beginning time, end time, completion date, and class location. This information is reasonably necessary to enable the Department to record PRE and CE credits in licensees' files.

The form contains a disclosure that: "The Department requests disclosure of a student's social security number pursuant to Insurance Code Sections 1749, 1749.2, 1749.3, 1749.31, 1749.4, 1749.5, 1749.7, and 1810.7 and California Code of Regulations, Title 10, Chapter 5, Section 2105.10 (b) (1) through (7) and 2188.6 (b)(1). This information is requested so that the Department can properly identify and assign credit to students who have completed prelicensing or continuing education courses. While a student's disclosure of his or her social security number here is not mandatory, any failure to provide this information may delay or otherwise impede the Department in assigning

credit for the completion of such courses to the appropriate students." This information is reasonably necessary to comply with privacy laws.

The form contains space for the provider to supply the licensee name, license number, and SSN. This information is reasonably necessary to enable the Department to record PRE and CE credits in licensees' files.

IDENTIFICATION OF STUDIES AND REPORTS

The Department relied on comments obtained in a series of meetings with bail PRE and CE providers, and in E-mailed comments, in drafting the regulation.

CONSIDERATION OF ALTERNATIVES

Alternatives to various sections of the regulation suggested by bail PRE and CE providers were considered. Any additional alternatives suggested to the Department during the public comment period will be considered and addressed in the Final Statement of Reasons. The regulation does not mandate the use of specific technologies or equipment. Where a section prescribes a specific action or procedure, the Department has determined that a performance standard would not sufficiently achieve the objective of the section. The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE REGARDING IMPACT ON BUSINESS

The Department has determined that the proposed regulation will not have a significant adverse economic impact on business. The economic impact of each section has been carefully considered by the Department, and by numerous bail education providers, none of which have opined that the regulation will not have a significant economic impact on business generally or on bail education providers in particular.

Date: June 19, 2006

JOHN GARAMENDI
Insurance Commissioner

By
Jon Tomashoff
Senior Staff Counsel